IN THE HIGH COURT OF DELHI AT NEW DELHI

FAO No.687/2003

Judgment delivered on: October 30th , 2007

Sh. Kapur Chand & Ors. ..... Appellants
Through: Mr.M.M. Israily, Advocate

versus

Sh. Raj Kumar Yadav & Anr. ..... Respondents
Through: None.

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to Reporter or not?

3. Whether the judgment should be reported in the Digest?

KAILASH GAMBHIR, J. Oral:

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Respondent No.2 was served through publication but even after the publication, nobody has appeared. Nobody has been appearing for respondent No.1 although duly served.

The grievance of the appellant in the present appeal is that the claim petition filed by the appellants was dismissed vide order dated 08.08.2003 on account of the fact that the appellants

failed to lead any evidence. Counsel for the appellant contends that adequate opportunity was not afforded to the appellants to produce their evidence and just after one date, the Tribunal has proceeded to finally dispose of the matter.

I have heard learned counsel for the appellant and perused the records. The appellants have filed claim petition claiming a sum of Rs.24 lacs towards compensation for death of their son Mr.Ramesh Chand who died on 12.10.2000 after being hit by the truck bearing registration No. HR-26-GA-0761 driven by respondent No.2 Sh.Mamman, rashly and negligently. FIR No.333/2000 was duly registered against the driver of the offending vehicle under Section 304 A IPC and the parents of the deceased had filed the said compensation. The issues in the said case were framed by the Tribunal vide order dated 14.5.2001 and the matter was adjourned to 12.10.2001 when the Presiding Officer of the Tribunal was on leave and then the matter was adjourned to 8.3.2002. On 8.3.2002, statement of appellant No.1 was recorded for consideration and grant of interim maintenance and the matter was adjourned for 9.9.2002 for further evidence of the appellants. On the said date, the file was directed to be placed before the other Presiding Officer due to the said case

being transferred. On 21.01.2003, no PW was present nor summoned and the matter was adjourned for 01.05.2003. On 01.05.2003 again the appellant did not produce any evidence and the matter was adjourned for 08.08.2003. On 08.08.2003 again, no witness on behalf of the appellants were present and the Tribunal without giving any further opportunity to the appellants, closed the evidence of the appellants and on the same date itself passed the impugned judgment.

Although it is a matter of common knowledge that the claimants approaching the Tribunal themselves cause undue and enormous delay in taking steps for early disposal of their case. This is indeed an unfortunate situation where compensation case gets delayed due to lapses or inactions on the part of the claimant. All the claimants appearing before the MACT should act promptly in prosecuting their matters so that expeditious disposal of the compensation cases can take place. However, at the same time, the Tribunals dealing with the compensation cases needs to be cautioned for not showing any kind of undue haste in disposing such matters. The compensation cases are to be treated dealt with not merely keeping in view the sound legal principles but with human compassion as well. In the instant case, a death of

young boy has taken place and the Tribunal in utter haste has dismissed the compensation petition in the absence of evidence led by the appellants. The hasty approach of the Tribunal in the present case deserves to be deprecated.

Motor Vehicles Act is a social welfare legislation. The provisions underlying the Act are indisputably beneficent in nature. The law pertaining to Motor Vehicles Act was brought on the statute book by the legislature to extend the relief by way of compensation to the victims of accidents or their family. It is settled law that to prevent injustice or to promote justice and to effectuate object and purpose of the welfare legislation broad and liberal view and interpretation should be made rather than taking a narrow and pedantic view and also technicalities should not come in the way of justice. Motor Vehicles Act being a beneficent legislation deserves a liberal construction and in that view of the matter the remedy to the claimants against tortfeasor for obtaining just compensation cannot be taken away on account of the fact that the appellants failed to lead any evidence.

At this stage, counsel for the appellant also contends that appellant No.1 has already expired on 05.06.2003. Counsel for the appellant also contends that due to the mistake of the

counsel, the application under Order 22 Rule 3 CPC was moved by appellant No.2 seeking deletion of name of appellant No.1 before the Tribunal after the final order. Counsel contends that the said application of appellant No.2 was dismissed by the Tribunal vide order dated 9.9.2003 after dismissal of the claim petition. It is no doubt correct that the application moved by appellant No.2 under Order 22 Rule 3 was not maintainable after trial in the compensation case was concluded with the passing of the final judgment in the case. However, since the present matter is being remitted back to the Tribunal, the appellant shall move necessary application along with condonation application before the Tribunal itself so as to bring on record the legal heirs of Late Shri Bhoorji Ram.

In the light of the above discussion, the impugned award is set aside. The Tribunal shall give due opportunity to the parties to lead evidence and then decide the case after hearing the parties.

With these directions, the present appeal is disposed of.

Parties are directed to appear before the Tribunal on 07.12.2007.

October 30, 2007 **KAILASH GAMBHIR, J.**
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